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: adoptionregs@state.gov
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U.S. Department of State
CA/OCS/PRT
Adoption Regulations Docket Room
SA-29
2201 C Street, NW:
Washington, DC 20520

Docket number State/AR-01/96

I would like to register our agency's grave concern about the potential financial costs of complying with the regulations implementing the Intercountry Adoption Act (IAA). We also have concerns about the potential delays that will result from incomplete information at the time of child matching. We feel these costs and delays will negatively impact international adoptions to the detriment of children.

Financial Burdens
22 CFR Part 96, Subpart F, 96.12(b) and (c) -- Annual financial audit with opinion letter.
The level of specificity of the audit is not indicated. The potential cost of a very detailed and specific audit can be extensive.

22 CFR Part 96, Subpart F, 96.12(e) -- Three months' cash reserves
A requirement that we carry enough cash on account to cover 3 months of rations is excessively burdensome. In our application for IRS n-profit status, we were informed of an adoption agency who carried a 20% cash reserve; they were denied non-profit status in part because this amount was considered excessive profit. Yet, 96.12(e) mandates 25% reserve.

22 CFR Part 96, Subpart F, 96.12(g) -- Independent professional assessment of risk.
We fear the cost of this consultation, while perhaps routine for larger companies/agencies, will significantly add to our agency overhead.

22 CFR Part 96, Subpart F, 96.12(h) -- Liability insurance
This coverage is already hard to find and expensive for domestic adoption agencies, so much so that Texas allows agencies to forego such coverage if it lays too heavy of a burden on agencies. This waiver is routine. We cannot imagine the cost of a $1,000,000 per occurrence policy that also covers international facilitators and sub-contractors.

We support the intent and wording of the IAA, Sec 203(b), concerning the specific requirements for accreditation. However, we also feel that these regulations will have the practical effect of driving most international adoption agencies out of business or, at best, into a secondary role as sub-contractors to the very large agencies. This is a particularly disturbing possibility especially in the absence of any research that this will actually help curb the abuses on the part of some disreputable agencies.

Furthermore, we predict that after we increase our non-financial standards practice under accreditation, we will actually encounter lawsuits for first time simply because the liability insurance coverage offers tort attorneys the potential of significant financial gain. This is perverse.

It is our opinion that professional practices are much more effective at curbing abuse than are substantial financial assets and insurance. As it

stands, there is little question that we will have to significantly raise our fees charged to families in order to comply with these obligations. This represents a burden without proven benefit.

ditional Child Information
CFR Part 96, Subpart F, 96.49 -- Medical and social information
e support the intent of providing as much medical and social information as possible about the children available for adoption. Prospective adoptive parents can best provide a good home for these children in light of the best available information.

However, we believe some of these provisions display a naive understanding of the nature of information reasonably available in international adoption cases. We also believe that this information requirement can result significant delays in the adoption process.

Paragraphs (d) through (f) list desirable data points on the available children. However, only in the very best of circumstances will most of this information be available. These standards appear to assume that agencies and their representatives control the level and flow of information available. Whereas the phrase "reasonable efforts" (notably missing from paragraph (e)) seems to defer to local culture, information systems and limitations, no standard as to what 'reasonable' means and by what cultural expectations.

Paragraph (g) offers agencies the opportunity to provide an explanation as to why the information is not available. But there is no indication as to what reason will be good enough. Who makes this determination and at what point in the process and within what time frame? If an answer makes sense within Asian or Eastern European culture, or is provided only by word of mouth, will an American accreditor or regulator agree? How much time will be lost attempting to satisfy the sensibilities of an American civil servant? If our experience with BCIS (which generally does a remarkable considering their workload) is any indication, weeks and months can be t seeking answers to unanswerable questions.

Summary
The intent of IAA is, in large part, to protect children and prospective adoptive parents from neglect and abuse, respectfully. We believe the financial requirements of this body of regulation has the potential of actually further exposing children to neglect in orphanages (without proven benefit to families) because fewer families and agencies will be able to meet the costs of compliance. We also believe children's stay in the orphanages could well increase due to attempts to satisfy American sensibilities of what information about children should be attainable.

We therefore urge the Department of State to
1) significantly roll back the financial burdens imposed by 96.33; or at least conduct a study of the extent and areas of abuse of adoptive families, outlining proven corrective measures; and
2) stipulate in 96.49(g) that culturally informed and sensitive social workers respond within 1 week concerning the adequacy of child information, if that determination occurs at a point in the adoption process that could delay child matching and placement; or at least clarify who makes the determination of acceptable reasons for incomplete child information, at what point in the adoption process and within what time frame.

Respectfully submitted,

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